IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1690 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HASMUKHBHAI KESHAVLAL & 3 - Petitioner(s)

Versus

PORBANDAR MUNICIPALITY - Respondent(s)

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Appearance :

MR PH PATHAK for Petitioner(s) : 1 - 4.
MR YOGESH S LAKHANI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE

Date : 27/01/2006

CAV JUDGMENT

1. By filing this petition under Article 226 of the Constitution of India, the petitioners have prayed to declare the action of the respondent depriving the

petitioners the benefit of regularization as arbitrary, illegal, unjust and violative of Articles 14 and 16 of the Constitution and further prayer is made to treat the petitioners as regular employees of the respondents with retrospective effect i.e., prior to the date of regularization of their juniors with 18% interest.

2. Heard the learned advocates for the parties and perused the material placed on record.

3. This Court (Coram : M.R.Calla, J) passed the following order on 19.3.1997 :

> “Rule. Mr.Waghela waives service of the Rule. The Respondents are directed to pass appropriate orders in accordance with the Award dated 30.8.1991 with regard to the petitioners and come with copy of such order before this Court on the next date. The application which is said to have been moved way back in the year 1991 by the Respondents before the Industrial Tribunal appears to be an application to avoid the implementation of the Award and if the Respondents have failed to obtain any order on that application for the period of seven years

the proceedings in this case cannot be held up or thwarted on that basis. Put up on 8.4.97."

4. It is submitted by Mr.Pathak, learned advocate appearing for the petitioners that the services of petitioner no. 1 – Hasmukhbhai Keshavlal had been regularized in permanent set up on his original post – Sr.Driver, Water Works Department from 1.8.1991 against the vacant post of J.Ramnarayan, Electrical Helper. He further submitted that petitioner nos. 2,3 and 4 have not been regularized since there is no permanent set up.

5. On the other hand, it is submitted by the learned advocate appearing for the respondent that as and when the post in the permanent set up is available, the services of the rest of the petitioners will be regularized. In this view of the matter, the respondent – Municipality is directed to pass appropriate orders in accordance with the judgment and award dated 30.8.1991 passed by the Industrial Tribunal, Rajkot in Reference (ITR) No. 396 of 1984 and give the appointment to the rest of the petitioners i.e., petitioner nos.2, 3 and 4 in the permanent set up as and when the permanent set up is available.

6. With the aforesaid direction, the present petition is disposed of. Rule discharged. No costs.

(SHARAD D DAVE, J)

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